

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

SELECT COMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN MONICA LINDEEN**, on March 8, 2005 at 3:47 P.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Monica Lindeen, Chairman (D)
Rep. Norma Bixby (D)
Rep. Tim Dowell (D)
Rep. Dave Gallik (D)
Rep. Holly Raser (D)
Rep. Jon Sonju (R)

Members Excused: Rep. Bill E. Glaser, Vice Chairman (R)
Rep. Verdell Jackson (R)

Members Absent: Rep. Bob Lake (R)
Rep. Pat Wagman (R)

Staff Present: Connie Erickson, Legislative Branch
Kim Leighton, Committee Secretary
Chris Lohse, Legislative Branch
Eddy McClure, Legislative Branch
Jim Standaert, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:
Executive Action: SB 152

CHAIR LINDEEN opened the meeting with general housekeeping issues.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 1.1}

(REP. LAKE and REP. WAGMAN entered.)

CHAIR LINDEEN discussed the work that the Select Education Subcommittee had been doing. She touched on her amendments, REP. WAGMAN's amendments and public testimony. She asked Eddy McClure to walk through the revised SB 152 and explain the amendments. **REP. GALLIK** asked what would happen if another member of the Committee wishes to make an amendment. **CHAIR LINDEEN** stated that if it is a small amendment, Ms. McClure could make them later. She explained what would need to happen if it is a substantive change. **Ms. McClure** explained the process of changing amendments in this manner. **REP. DOWELL** wished to publicly thank the Subcommittee for all their hard work.

Ms. McClure began to discuss the new set of amendments. She explained what they mean and how they have changed over the course of this process. She also read part of the constitution that deals with race and religion discrimination.

[EXHIBIT\(esh51a01\)](#)

[EXHIBIT\(esh51a02\)](#)

{Tape: 1; Side: B; Approx. Time Counter: 0 - 0.5}

CHAIR LINDEEN thanked Ms. McClure for her explanation. She opened the floor to any public comment.

Dave Puyear, Montana Rural Education Association (MREA), provided some input from MREA. He expressed some problems they have with this revised version of SB 152.

CHAIR LINDEEN clarified a few points that Mr. Puyear made. She explained that a portion of the bill is existing law. She also stated that there are sections that he referred to that are not exactly in the definition. She clarified which part of the bill contains the definition.

Joe Lamson, Office of Public Instruction (OPI), came representing Linda McCulloch, State Superintendent. **Mr. Lamson** wished to thank the Committee for all their hard work. He touched on the funding mechanism process. He also talked about State and Federal regulations. He strongly urged that they move the ten-year reassessment cycle back to six years.

Lance Melton, Montana School Board Association (MTSBA), touched on specific sections of the bill. He recommended adding a

supplemental duty to the section dealing with the ten-year reassessment cycle. He added that both parties worked well.

Eric Feaver, Montana Education Association-Montana Federation of Teachers (MEA-MFT), wished to applaud the efforts of the Committee. He believes that the ten-year cycle should be reduced to a six-year cycle. He also mentioned some possible language changes.

Steve Meloy, Board of Public Education (BPE), spoke about part of REP. WAGMAN's amendment. He offered some possible alternatives to the language.

{Tape: 1; Side: B; Approx. Time Counter: 0.5 - 26.1}

Questions From Committee Members:

REP. GALLIK asked Mr. Melton about the language on Page 8. **Mr. Melton** stated that if they wanted to mirror the language in Article 10, Section 8, they should parallel the language in the bill. **REP. RASER** had an additional question on the language. **CHAIR LINDEEN** asked her to discuss it when they do executive action. **REP. RASER** wished to discuss Page 9, Lines 20-30. She wanted to know what the time-line is. **Ms. McClure** stated that she had spoken with Greg Petesch to clarify this and discussed the conversation to REP. RASER.

{Tape: 2; Side: A}

REP. RASER asked if this was part of the process prior to adoption. **Ms. McClure** explained the process as she understands it. **REP. RASER** said that it sounds like part of the hearing process. **Ms. McClure** added that she keeps a record. **REP. RASER** asked how they can get certain aspects into the budget, if that has already been appropriated. **Ms. McClure** reiterated that during the session there is a fiscal note. She stated that otherwise it would go into the budget for the next session. **REP. RASER** inquired about an interim session. **Ms. McClure** explained what would happen in this instance. **REP. RASER** inquired if there was some language they could use to clarify that.

REP. GALLIK asked Ali Bovington, Office of the Attorney General, if she believed this definition would satisfy the Supreme Court's decision. **Ms. Bovington** believed this definition is very defensible. She added that the components are measurable. **REP. GALLIK** touched on Page 7, Line 28-30 and Page 8, Line 1 that deal with Indian education. He wondered if this would satisfy Judge Sherlock's decision. **Ms. Bovington** attested that she believes

relying on the language in the constitution would be sufficient. **REP. GALLIK** pointed to Page 9, Section 3, Line 16. He wished to discuss the language surrounding the issue of both the legislature and BPE having constitutional powers. **CHAIR LINDEEN** clarified **REP. GALLIK**'s question by asking if it preserves the BPE's constitutional authority. **Ms. Bovington** discussed the constitution as well as the Office of the Attorney General's responsibilities. She added that the language is somewhat a matter of semantics. **CHAIR LINDEEN** inquired into the BPE's authority. **Ms. Bovington** stated that the legislature cannot contravene what is in the constitution by statute. **REP. GALLIK** asked if they should put in a severity clause to avoid litigation. **Ms. Bovington** reiterated that it was a good idea. **REP. WAGMAN** clarified the intent of Page 9, Line 20.

(CHAIR LINDEEN distributed a revised letter that she drafted to BPE.)

EXHIBIT (esh51a03)

{Tape: 2; Side: A; Approx. Time Counter: 0 - 19}

(CHAIR LINDEEN called for a five-minute recess.)

EXECUTIVE ACTION ON SB 152

(This is a continuation of SB 152 from an earlier date.)

Discussion:

REP. LAKE stated that both the Select Committee on Education and the Select Education Subcommittee had worked very hard on this issue. He voiced one concern. He explained that he is concerned that the description on at-risk students could lead to another lawsuit.

CHAIR LINDEEN proposed considering an amendment on the House floor. **REP. LAKE** clarified what he would like to do. **Ms. McClure** pointed out that what he is referring to on Page 8 is an educationally relevant factor, rather than part of the definition. **REP. LAKE** claimed that he is not totally comfortable leaving it undefined. **Ms. McClure** asked **REP. LAKE** if he had an example as to how he would define it. **REP. LAKE** explained important components that should be involved in the definition of quality education.

CHAIR LINDEEN believed it would be valuable for the rest of the Committee to hear the testimony that Ali Bovington gave the Subcommittee on Monday.

Ms. Bovington reiterated what the Court has directed the legislature to do. She said that the definition the Select Committee on Education has before them can be measured. She added that the Office of the Attorney General could defend this definition. She stressed that it is a defensible definition.

CHAIR LINDEEN stated she wanted everyone to have the benefit of her testimony.

Motion: **REP. GALLIK** moved that SB 152 DO PASS AS AMENDED.

Motion: **REP. GALLIK** moved that AMENDMENTS TO SB 152 BE ADOPTED.

Discussion:

REP. GALLIK offered several amendments on language wordsmithing.
{Tape: 2; Side: B}

Ms. McClure made a suggestion on one of **REP. GALLIK**'s amendments. **REP. GALLIK** continued with his amendments on the language. He also suggested adding a severability clause. **Ms. McClure** had a question on his first amendment.

CHAIR LINDEEN wanted the Committee to walk through **REP. GALLIK**'s amendments and discuss them.

REP. SONJU stated that people go to college for employment and asked if this is really necessary. **REP. GALLIK** stated that they need to prepare students for both employment and college.

REP. DOWELL stated that there are other forms of secondary education beyond college. **REP. GALLIK** said he would be willing to say, "...post-secondary...."

REP. WAGMAN posed the possibility of stating, "...and/or...."
Ms. McClure stated that they cannot use dashes. **Connie Erickson, Legislative Services Division**, expanded on the possibility of playing with the language. **CHAIR LINDEEN** offered a suggestion in terms of the language.

REP. RASER recommended a minor addition to the language. **REP. WAGMAN** wondered if the Committee was getting too specific with the language. **Ms. McClure** stated that these are goals, not aspects which students will be measured by. **CHAIR LINDEEN** offered a compromise on the language.

The Committee moved on to the next amendment. **REP. LAKE** asked if this language was specific to Indian education. **Ms. McClure** confirmed that it is.

Next, they discussed the amendment on Page 8, Line 2. There was agreement around the table on the proposed language change. They moved to the amendment on Page 8, Line 8. They also agreed on this. **CHAIR LINDEEN** discussed a proposal from OPI to add language between Lines 3 and 4 on Page 9. Upon agreement, they moved on to Page 9, Line 28. **REP. LAKE** asked Ms. McClure if she was happy with the statement. **Chris Lohse, Legislative Services Division**, suggested inserting, "...that the same...." into the text. **REP. WAGMAN** believed there was a typo on Page 9, Line 30. **Ms. Erickson** checked the codes and stated that it is not a typo.

CHAIR LINDEEN commented on **REP. GALLIK's** proposal to add a severability clause. They all agreed on this.

REP. RASER had a suggestion for language on Page 7, Line 6. There was no discussion on that amendment. She also talked about reconsidering the ten-year reassessment cycle to every six years; she explained her reasons for this.

REP. WAGMAN stated that **REP. GLASER** had a recommendation that the language say, "...at least every ten years...." **Ms. McClure** claimed that there is an automatic conflict with **REP. GLASER's** bill if it is worded that way.

REP. LAKE commented that he tends to lean towards the ten-year cycle. He does not believe that six years is long enough.

REP. WAGMAN reiterated that the language **REP. GLASER** recommended would read, "...at least every ten years...." **REP. RASER** claimed that she would be willing to accept that. However, she doesn't think it is good policy.

REP. BIXBY stated that she liked Mr. Feaver's recommendation of having an interim committee address this. **Ms. McClure** added that the Committee needs to look at what they are reviewing. **REP. BIXBY** asked if that would be the job of the interim committee. **Ms. McClure** clarified this for **REP. BIXBY**.

REP. WAGMAN talked about some adjustments that the Subcommittee made on Page 8, Lines 10-12. **REP. LAKE** asked if Mr. Lohse would be willing to say a few words. **Mr. Lohse** stated that he wasn't very comfortable giving a policy description at this time. **Ms. Erickson** offered a clarification on HB 310.

REP. GALLIK stated that it should be uniform, whatever they do.

Upon discussion of this amendment, **REP. RASER** withdrew her motion, without objection.

REP. BIXBY proposed a language change on Page 9, Line 20. **Ms. McClure** explained how the language effects the content.

CHAIR LINDEEN explained that they would vote on the amendments first, and then vote on SB 152 as amended by the Committee and Subcommittee on Select Education.

Vote: Motion that **AMENDMENTS ON SB 152 BE ADOPTED** carried 9-1 by voice vote with **REP. JACKSON** voting no. **REP. JACKSON** and **REP. GLASER** voted by proxy.

Vote: **REP. GALLIK's** motion **SB 152 DO PASS AS AMENDED** carried unanimously by voice vote. **REP. JACKSON** and **REP. GLASER** voted by proxy.

REP. RASER wished to applaud the Subcommittee for all of their hard work.

ADJOURNMENT

Adjournment: 6:18 P.M.

REP. MONICA LINDEEN, Chairman

KIM LEIGHTON, Secretary

ML/kl

Additional Exhibits:

EXHIBIT ([esh51aad0.PDF](#))